

1 HON. BARBARA J. ROTHSTEIN
2 TRIAL DATE:
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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE WESTERN DISTRICT OF WASHINGTON**
9 **SEATTLE DIVISION**

10 **BARBARA TOMASZEWSKI, A SINGLE**
11 **PERSON,**

12 **PLAINTIFFS,**

13 **v.**

14 **DOLLAR TREE STORES, INC., A FOREIGN**
15 **CORPORATION DOING BUSINESS IN KING**
16 **COUNTY, WASHINGTON; SBI BURIEN,**
17 **LLC., A WASHINGTON LIMITED**
LIABILITY CORPORATION.

18 **DEFENDANT.**

19 **NO: 2:22-cv-01710 BJR**

20 **AMENDED COMPLAINT FOR**
21 **PERSONAL INJURIES AND**
DAMAGES

22 NOW COMES the plaintiff, Barbara Tomaszewski, through her attorney of
23 record, John P. Walsh, who appears before the Court complaining against the defendant:
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27 **AMENDED COMPLAINT**
28 **FOR PERSONAL INJURIES**
& DAMAGES

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I. JURISDICTION & VENUE

1.1 The Superior Court of the State of Washington in and for the County of King is the appropriate venue for this action. All acts and omissions complained of occurred in Burien, King County, Washington in the parking lot of the Dollar Tree store at 250 SW 152nd St.

1.2 This cause of action arose because of an injury sustained at the Dollar Tree establishment in Burien, King County, Washington.

II. PARTIES

- 2.1 Plaintiffs Barbara Tomaszewski lives in Burien, King County, Washington.
- 2.2 Defendant Dollar Tree Stores, Inc., was and is a corporation doing business in King County, Washington, organized and existing under the laws of the State of Virginia.

2.3 Defendant Dollar Tree Stores, Inc., operated the retail sales establishment
Dollar Tree at 250 SW 152nd St., Burien, Washington.

2.4 SBI Burien, LLC, is the property owner of the premises where Barbara Tomaszewski fell on October 19, 2022, in Burien, King County, Washington.

2.5 SBI Burien, LLC, is a Washington Limited Liability Corporation with its principal office located in Seattle, Washington.

III. FACTS

3.1 Plaintiff repeats and realleges the allegations of paragraph 1.1 through 2.5 as if set forth fully herein.

3.2 On October 19, 2022, the Defendant Dollar Tree Store, Inc., store at 250 SW 152nd St., Burien, Washington, was open for business.

3.3 Dollar Tree Stores, Inc., is the operator of discount variety stores across North America.

3.4 Defendant invited the members of the public to come into its store so it could sell its discount variety merchandise to the public.

3.3 Defendant Dollar Tree Stores, Inc., was in sole control of the store and specifically the area of the store's parking lot where Barbara Tomaszewski tripped and fell.

3.3A Defendant Dollar Tree Stores, Inc., and Defendant SBI Burien, LLC, were in joint control of the parking lot designated under the lease for use by the customers, vendors and employees of the Dollar Tree store.

3.4 Defendants were jointly responsible for maintenance of the Dollar Tree customer parking lot where Barbara Tomaszewski fell.

3.5 Defendant Dollar Tree Stores, Inc., and SBI Burien, LLC, knew or were reasonably expected to know of the hazardous pothole in the Dollar Tree store customer parking lot.

1 3.6 Despite that fact, the hazardous pothole was allowed to remain as a danger
2 to the public.

3 3.7 At the time of her fall on the premises, Barbara Tomaszewski was an
4 invitee of Defendant Dollar Tree retail store.
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6 3.8 Defendants were aware that other customers had tripped in the same
7 pothole in its customer parking lot before Barbara Tomaszewski fell on 10/19/2022.
8

9 3.9 It was foreseeable for customers of Defendant Dollar Tree's store to use
10 the provided customer parking lot.
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12 3.10 The below photo is a true and accurate photo of the pothole in Defendant
13 Dollar Tree's customer parking lot:
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3.11 The above pothole was in an area where customers could reasonably be
expected to walk.

3.12 Defendants knew, or reasonably should have known, the pothole created a
tripping hazard to its customers and was a dangerous condition.

3.13 Defendants took inadequate steps to inspect the customer parking lot for
tripping hazards and dangerous conditions.

1 3.14 Defendants did not try to warn its invitees of the tripping hazard presented
2 by the pothole existing in the customer parking lot.

3 3.15 Plaintiff was not comparatively at fault.

4 3.16 There is no other entity, within the meaning of RCW 4.22.070, whose
5 fault caused or contributed to Barbara Tomaszewski's personal injuries and damages
6 other than Defendants.

7 3.17 Using the provided customer parking lot and entering defendant Dollar
8 Tree's store via the parking lot is an inherent mode of operation of defendant's business.
9

10 3.18 Defendants failed to exercise ordinary care to discover reasonably
11 foreseeable tripping hazards, such as the pothole in the provided customer parking lot.

12 3.19 The pothole in the parking lot presented an unreasonable risk of harm to
13 defendants' invitees.

14 3.20 Because of tripping and falling, plaintiff suffered severe, permanent, and
15 disabling injuries causing her to have to obtain medical care, including surgery.
16

17 **IV. DAMAGES AND PROXIMATE CAUSE**

18 4.1 Plaintiff repeats and realleges the allegations in paragraph 1.1 through 3.20
19 as if fully set forth herein.

20 4.2 As a direct and proximate result of defendants' negligence, plaintiff
21 Barbara Tomaszewski has suffered pain, mental and physical anguish, and physical
22 disabilities, to her person in amounts to be established and proven at time of trial.
23

1 4.3 Barbara Tomaszewski, as a further direct and proximate result of
2 defendants' negligence, has suffered significant monetary losses resulting from the
3 impairment of her earning capacity and her inability to carry out normal day-to-day work,
4 family, and recreational activities she enjoyed before tripping and falling on defendant SBI
5 Burien, LLC's premises.

6
7 4.4 As a direct and proximate result of defendants' negligence, the plaintiff
8 has expended and will continue to expend significant money for medical expenses to
9 regain her health and normal physical condition that existed before the incident, the exact
10 extent of which is unknown, but will be further reestablished at the time of trial.

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12 4.5 Plaintiffs, as further direct and proximate result of all defendants'
13 negligence, have suffered other pecuniary losses and property damage in amounts
14 unknown but to be proven and established at the time of trial.

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16 4.6 Plaintiff Barbara Tomaszewski, as further direct and proximate result of
17 defendants" negligence, has suffered general damages, including but not limited to, pain
18 and suffering, emotional distress and discomfort, loss of enjoyment of life, in amounts
19 unknown, but to be proven and established at the time of trial.

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22 **V. PRAYER FOR RELIEF**
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24 WHEREFORE, the plaintiff prays for judgment against the defendants, jointly
25 and severally, for the following damages:
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27 **AMENDED COMPLAINT
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1 5.1 For an award of damages compensating plaintiff Barbara Tomaszewski for
2 physical injuries in an amount to be proven at trial.

3 5.2 For an award of damages compensating plaintiffs for past and future
4 medical and out-of-pocket expenses, in an amount to be proven at trial.
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6 5.3 For an award of damages compensating plaintiff Barbara Tomaszewski for
7 past and future pain and suffering in an amount to be proven at trial.
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9 5.4 For an award of damages compensating plaintiff for past and future mental
10 and emotional distress in an amount to be proven at trial.
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12 5.5 For an award of damages compensating Barbara Tomaszewski for
13 diminished earning capacity in an amount to be proven at trial.
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15 5.6 For an award of prejudgment interest on all medical and out-of-pocket
16 expenses directly and proximately caused by the negligence herein in an amount to be
17 proven at trial.
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19 5.7 For an award of damages compensating plaintiffs for her costs and
20 disbursements herein in an amount to be proven at trial; and
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1 5.8 For such other and further relief as the court may deem just and equitable.

2 Dated this 9th day of February 2023.

3 **LAW OFFICE OF JOHN P. WALSH**

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8 John P. Walsh, WSBA # 12437
9 Attorney for Plaintiffs

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